

Council Communication

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|---------------------------------|
| Department: Legal | Ordinance No. <u>5996</u> | First Reading <u>4/28/2008</u> |
| Case/Project No. | Resolution No. | Second Reading <u>5/12/2008</u> |
| Third Reading _____ | | |
| Subject/Title | | |
| An Ordinance to amend Chapter 1.10 "Administration and Personnel" of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing and reenacting Section 1.10.020 "Compensation of Mayor". | | |
| Background/Discussion | | |
| At the request of Councilmember Walsh, an ordinance has been prepared that will increase the salary of the Mayor to \$93,369 per year, effective January 1, 2010. The ordinance also provides for a 3.5% annual increase thereafter. | | |
| The salary of the Mayor has not increased since 2005. On July 1, 2008, the pay range for department heads will be \$77,550-\$98,976. | | |
| Recommendation | | |
| Pass and approve the proposed amendment to the Mayor's salary. | | |

Department Head Signature



Mayor Signature

ORDINANCE NO. 5996

AN ORDINANCE to amend Chapter 1.10 "Administration and Personnel" of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing and reenacting Section 1.10.020 "Compensation of Mayor".

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 1.10 "Administration and Personnel" of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing and reenacting Section 1.10.020 "Compensation for Mayor", to read as follows:

"1.10.020 Compensation for Mayor. Effective January 1, 2002, the compensation for the mayor shall be seventy three thousand dollars (\$73,000.00). Compensation for the mayor shall increase as follows: January 1, 2003—seventy four thousand eight hundred twenty five dollars (\$74,825.00); January 1, 2004—seventy six thousand six hundred ninety five dollars (\$76,695.00); January 1, 2005—seventy eight thousand six hundred fifteen dollars (\$78,615.00). Effective January 1, 2010, the compensation for the mayor shall be the lesser of \$91,930 or \$85,817 multiplied by the actual cost of living adjustments for the two years preceding the effective date of the increase, or 3.5% for those years, whichever is less. Thereafter, compensation for the mayor shall increase by either 3.5%, or the cost of living increase for the previous year as determined by the Consumer Price Index for the Kansas City Region, whichever is less.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ord. 5643, Section 1, 2001).

SECTION 3. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

PASSED
AND _____, 2008
APPROVED

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

First Consideration: April 28, 2008
Second Consideration: May 12, 2008 (continued to June 9, 2008)
Second Consideration: June 9, 2008
Third Consideration: June 23, 2008

Council Communication

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| Department: Public Works Division: Building Case/Project No. | Ordinance No. <u>6004</u> | First Reading June 9, 2008 Second Reading June 23, 2008 Third Reading request waiver |
| Subject/Titles | | |
| AN ORDINANCE to repeal Ordinance #5990 and #5991, and to amend the effective date from Ordinances #5984, #5988, and #5989, all passed and approved on April 14, 2008. | | |
| Background/Discussion | | |
| <p>The State Legislature in 2007 passed into law Iowa Code 104C that created state licensing of the Plumbing and Mechanical trades and declared that all plumbing and mechanical licenses issued by any governmental subdivision shall be null and void effective July 1, 2008.</p> <p>On April 14, 2008, the Council passed into law Ordinances 5983 through 5992 and these were published on April 18, 2007, which amended Municipal Code Title 13 in reaction to Iowa Code 104C.</p> <p>On April 21, 2008, the City was notified by the Iowa Department of Public Health that the Governor signed into law HF2390 which stated that local jurisdictions that issue Plumbing & Mechanical licenses on July 1, 2008, are required to continue to issue licenses until June 30, 2009. On July 1, 2009, all local plumbing and mechanical licensing programs are required by the State to become null and void.</p> <p>Therefore because of this recent legislative action by the State of Iowa, this ordinance amends the Municipal Code in amending Municipal Code Title 13 "Buildings & Construction" by repealing Ordinances #5990 and #5991 and amending effective dates of Ordinances #5984, #5988, and #5989.</p> | | |
| Recommendation | | |
| The Public Works Director and the Building Official recommend that the City Council favorably consider these proposed ordinances and pass them into law. | | |

Building Official's Signature

Public Works Director's Signature

Mayor's Signature



ORDINANCE NO. 6004

AN ORDINANCE to repeal Ordinance Nos. 5990 and 5991, and to amend the effective date for Ordinance Nos. 5984, 5988, and 5989, all passed and approved on April 14, 2008.

WHEREAS, due to a recent change by the Iowa Legislature, local jurisdictions that issue Plumbing and Mechanical licenses must continue to do so until June 30, 2009.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Ordinance Nos. 5990 and 5991 be and the same are hereby repealed in their entirety, as the provisions contained therein are repetitious and better defined in Ordinance No. 5989.

SECTION 2. That the effective dates for Ordinance Nos. 5984, 5988, and 5989, passed and approved on April 14, 2008, be and the same are hereby amended to July 1, 2009.

SECTION 3. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND _____, 2008
APPROVED

THOMAS P. HANAFAN Mayor

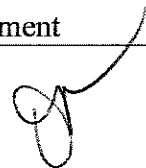
Attest:

JUDITH RIDGELEY City Clerk

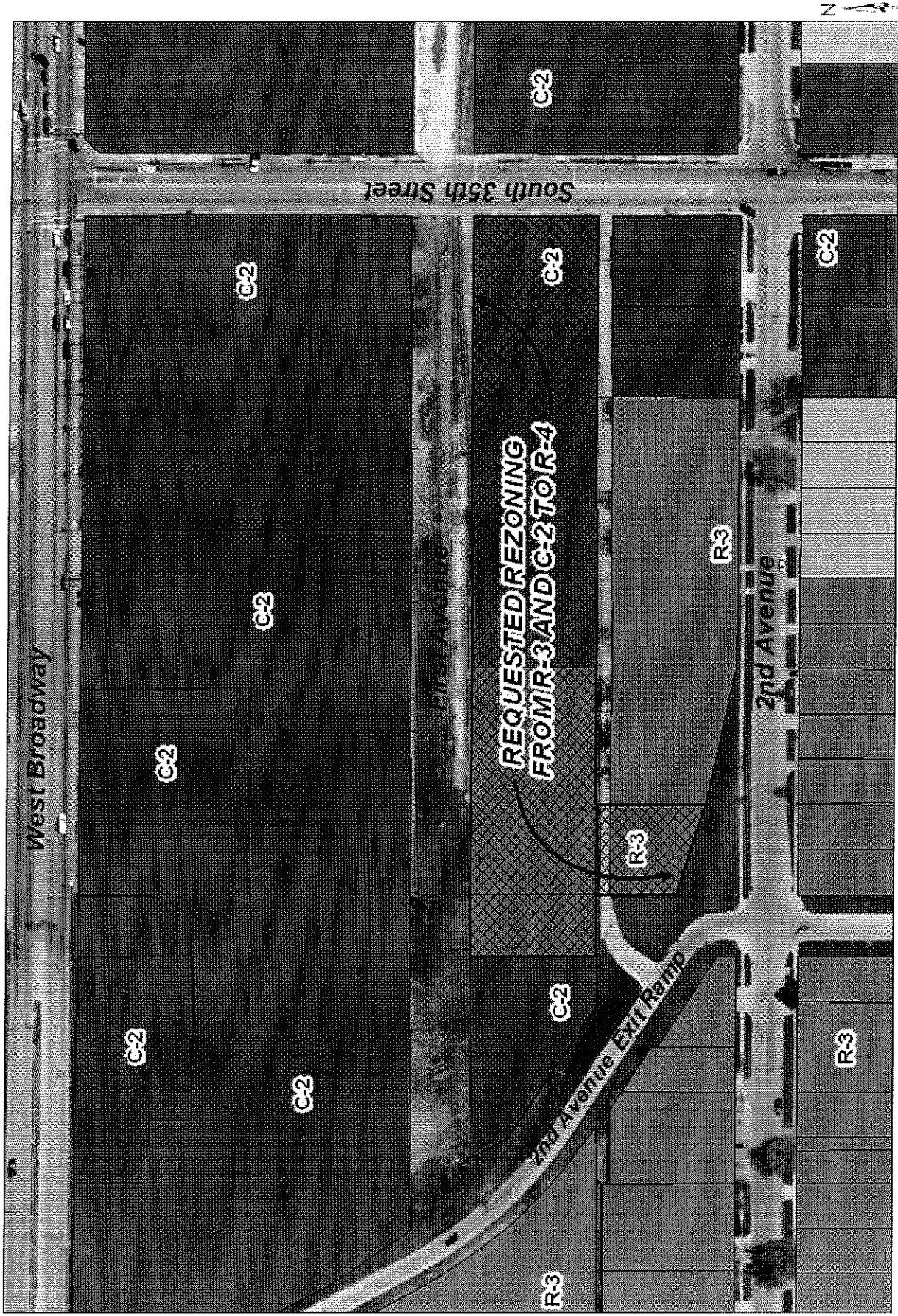
First Consideration: June 9, 2008
Second Consideration:
Third Consideration:

City Planning Commission

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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|--------------------------------------------------------------------------------------------------------|
| Department: Community Development | | Planning Commission: 06/10/08 First Reading: <u>06/23/2008</u> Second Reading: Third Reading: |
| Case No. ZC-08-009 | Ordinance No. <u>6005</u> | |
| Applicant: Seldin Properties, LLC and Maple Leaf Apts., LLC | | |
| Subject Request of Seldin Properties, LLC and Maple Leaf Apts., LLC, 13057 West Center Road, Omaha, NE 68144, represented by Deborah L. Petersen, 215 South Main Street, PO Box 893, Council Bluffs, IA 51502-0893, to rezone Lots 16 through 25, Block 24, Ferry Addition, located at 110 South 35 th Street from C-2 Commercial to R-4/High Density Multi-Family Residential and to rezone Lots 1 and 2 and Lots 26 through 30, except state, Block 24, Ferry Addition and all vacated South 36 th Street adjacent, located at 3527 – 1 st Avenue from R-3/Low Density Multi-Family Residential to R-4/High Density Multi-Family Residential. | | |
| Background Seldin Properties and Maple Leaf Apts. own the multi-family developments at 110 South 35 th Street, currently zoned C-2 Commercial and is nonconforming, and 3527 First Avenue, zoned R-3/Low Density Multi-Family and in conformance. The Seldin property contains 56 units on a parcel containing 58,080 square feet. Maple Leaf consists of 24 units on a parcel containing 78,408 for a total of 80 units and 136,488 square feet of area. Under R-3 zoning, a total of 159,000 square feet of area is required for 80 units. The current owners want to combine the properties into one parcel and convey it to a common owner. They are asking that the parcels be rezoned to R-4/High Density Multi-Family Residential so that together the properties will be in compliance with the density requirement of at least 62,250 square feet of area for the 80 units. No indication has been given that any new structures are to be built on site. Land uses surrounding the subject properties include commercial to the north and east, residential to the south and residential and vacant land to the west. Surrounding zoning is shown on the attached map. There has been no comment from any property owner within 200 feet. Two letters were returned, undeliverable, in the mail. | | |
| Recommendation Because the requested rezoning will bring the existing use into compliance, no new structures are being proposed and no opposition has been received from the surrounding property owners, the Community Development Department recommends rezoning Lots 16 through 25, Block 24, Ferry Addition, located at 110 South 35 th Street, from C-2 Commercial to R-4/High Density Multi-Family Residential and rezoning Lots 1 and 2 and Lots 26 through 30, except state, Block 24, Ferry Addition and all vacated South 36 th Street adjacent, located at 3527 – 1 st Avenue, from R-3/Low Density Multi-Family Residential to R-4/High Density Multi-Family Residential. | | |
| Attachments: Map showing proposed rezoning area and surrounding zoning. Prepared By: Rebecca Sall, Planning Technician, Community Development Department | | |



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CASE #ZC-08-009

Prepared by: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4620
Return to: City Clerk, 209 Pearl Street, Council Bluffs, IA

ORDINANCE NO. 6005

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.02.040 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY CHANGING THE DISTRICT DESIGNATION OF CERTAIN GROUNDS, PREMISES AND PROPERTY LOCATED AT 110 SOUTH 35TH STREET, FROM ITS PRESENT DESIGNATION AS C-2/COMMERCIAL TO R-4/HIGH DENSITY MULTI-RESIDENTIAL; AND PROPERTY LOCATED AT 3527 – 1ST AVENUE FROM ITS PRESENT DESIGNATION AS R-3/LOW DENSITY MULTI-FAMILY RESIDENTIAL TO R-4/HIGH DENSITY MULTI-FAMILY RESIDENTIAL, AS SET FORTH AND DEFINED IN CHAPTERS 15.15, 15.10, AND 15.11 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.040 of the 2005 Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended by changing the district designation of certain grounds, property and premises, as follows:

Lots 16 through 25, Block 24, Ferry Addition, located at 110 South 35th Street, from C-2/Commercial to R-4/High Density Multi-Family Residential; and

Lots 1 and 2 and Lots 26 through 30, except State of Iowa, Block 24, Ferry Addition and all of vacated South 36th Street right-of-way adjacent, located at 3527 – 1st Avenue, from R-3/Low Density Multi-Family Residential to R-4/High Density Multi-Family Residential.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Effective Date. This ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED
AND
APPROVED

THOMAS P. HANAFAN

Mayor

Attest:

JUDITH RIDGELEY

City Clerk

FIRST CONSIDERATION: June 23, 2008

SECOND CONSIDERATION: _____

PUBLIC HEARING: _____

THIRD CONSIDERATION: _____

Council Communication
June 23, 2008 City Council Meeting

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|----------------------------------|
| Department: Community Development | Ordinance No.: N/A | |
| Case/Project No.: N/A | Resolution No.: <u>08-188</u> | Council Action: <u>6/23/2008</u> |
| Subject/Title | | |
| Execute US EPA Brownfields Assessment Grants. | | |
| Location | | |
| City-wide, particularly in the South Main Urban Renewal Area, properties generally bounded by 3 rd Street on the east, 16 th Avenue on the south, South Expressway on the west and 9 th Avenue on the north. | | |
| Background/Discussion | | |
| <u>Background</u> The U.S. Environmental Protection Agency (EPA) has established a Brownfields Assessment Grant Program. This Program provides local communities with up to \$400,000 to inventory, characterize, assess and conduct planning and community involvement and \$600,000 to perform cleanup activities related to brownfield sites. No matching funds are required. In 2005 the City was successful in receiving \$400,000 in EPA Brownfields Assessment Grant funds to inventory, assess, and characterize environmental contaminants within the City, particularly in the South Main Urban Renewal area. To date, Phase I Environmental Site Assessments have been completed on 26 properties and Phase II Environmental Site Assessments have been completed on 17 properties in the South Main Urban Renewal area. An additional 23 properties have been identified. | | |
| <u>Discussion</u> In October of 2007, three applications for EPA Brownfields Grants were prepared and submitted to the EPA. The applications requested \$200,000 to inventory, assess, and characterize hazardous materials; \$200,000 to inventory, assess, and characterize petroleum materials; and \$200,000 to remediate 1001 South 6 th Street within the City of Council Bluffs, particularly in the South Main area. On May 21, 2008 the City was awarded two \$200,000 EPA Brownfields Assessment Grants for the City of Council Bluffs. The total amount awarded is \$400,000. | | |
| Staff Recommendation | | |
| The Community Development Department recommends City Council approve and adopt a resolution authorizing the Mayor to execute two \$200,000 EPA Brownfields Assessment Grants for the City of Council Bluffs, for a total grant amount of \$400,000. | | |
| Attachments | | |
| None. | | |

Submitted by: Tina Hochwender, Project Coordinator, Community Development Department
Approved by: Donald D. Gross, Director, Community Development Department















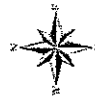
South Main Brownfields Project Council Bluffs, Iowa

Full Overview

Presented to: The City of Council Bluffs, Iowa

Map Key

| | | | |
|-------------------------------------------------------------------------------------|-------------------|-------------------------------------------------------------------------------------|----------------------------------|
|  | Project Area |  | Parcel Eligibility |
|  | Cluster Areas |  | Hazardous Eligible |
|  | Parcels |  | Petroleum Eligible |
|  | Project Phase |  | Hazardous and Petroleum Eligible |
|  | Phase I Complete |  | Pending Review |
|  | Phase II Complete |  | Ineligible for EPA Grant |



0 200 400 Feet
1 inch equals 400 feet

Data Sources: Bana (Resource Geographic Information System)
NRGIS, Iowa, Iowa DNR, Potawatomi County
Assessor
Projected Coordinate System: North American Datum 1983 State
Plane Iowa South FIPS 1402 Feet
Projection: Lambert Conformal Conic

Date: 01/27/2007
User: P. L. L. L.
Author: P. L. L. L.



Howard R. Green Company

RESOLUTION NO. 08-188

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE TWO \$200,000 U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) BROWNFIELDS ASSESSMENT GRANTS FOR THE CITY OF COUNCIL BLUFFS, FOR A TOTAL GRANT AMOUNT OF \$400,000.

WHEREAS, the US EPA Brownfields Assessment Grant program is a source of funding to identify existing contaminants; and

WHEREAS, the City has made applications for US EPA Brownfields Assessment Grants for the City of Council Bluffs; and

WHEREAS the City was awarded two US EPA Brownfields Assessment Grants in the amount of \$200,000 each, for a total of \$400,000; and

WHEREAS, the application for, and use of, said funds is in the best interest of the City; and

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That the Mayor is hereby authorized to execute the two \$200,000 US EPA Brownfields Assessment Grants for the City of Council Bluffs, for a total grant amount of \$400,000.

ADOPTED

AND

APPROVED: June 23, 2008

Thomas P. Hanafan

Mayor

ATTEST:

Judith H. Ridgeley

City Clerk

Council Communication

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|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|----------------------------|
| Department: Community Development Department | Resolution No. <u>08-189</u> | Council Action: 6/23/08 |
| <div style="text-align: center;">Subject/Title</div> <p>Application submittal for the Iowa Great Places grant program for implementation of the Playland Park Master Plan project components.</p> | | |
| <div style="text-align: center;">Background/Discussion</div> <p>The City of Council Bluffs retained HDR Engineering, Inc. to develop a master plan for the Playland Park property including the property adjacent on the river side of the Missouri River Levee. The Playland Park Steering Committee and the Parks, Recreation and Public Property Commission and City Planning Commission all concurred with the prepared master plan and recommended adoption by the City Council.</p> <p>Council Bluffs: River's Edge was designated a 2007 Iowa Great Place. A total of \$2 Million is available for the seven 'places' designated in 2007; funding will be awarded on a competitive basis.</p> <p>The total project cost is expected to be approximately \$23 Million. Funding in the amount of \$2 Million has been received from Iowa West Foundation. City staff has identified the Community Attraction and Tourism (CAT) program funded by the Vision Iowa Board as a potential funding source for portions of the eligible project expenses and has submitted an application for funding (pending).</p> | | |
| <div style="text-align: center;">Recommendation</div> <p>The Community Development Department recommends the City Council authorize the Mayor to submit an Iowa Great Places Grant Application to the Iowa Department of Cultural Affairs and authorize the Mayor and City Clerk to enter into a contract if approved.</p> | | |
| <p>Prepared by Rose E. Brown, Urban Planner – Donald D. Gross, Director of Community Development Department</p> | | |

813

RESOLUTION NO. 08-189

A RESOLUTION AUTHORIZING THE MAYOR TO SUBMIT AN IOWA GREAT PLACES GRANT APPLICATION AND AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT IF APPROVED.

WHEREAS, Council Bluffs: The River's Edge was designated a 2007 Iowa Great Place; and

WHEREAS, the development of the riverfront and the former Playland Park site will be an important multi-purpose attraction and tourism facility; and

WHEREAS, the City Planning Commission supports the Playland Park Master Plan and project components; and

WHEREAS, the Parks, Recreation and Public Property Commission supports the Playland Park Master Plan and project components; and

WHEREAS, the City Council supports the implementation of the Playland Park Master Plan and supports the proposed project components; and

WHEREAS, the City Council deems it is in the best interest of the City of Council Bluffs to pursue funding for the development of the riverfront and former Playland Park site in accordance with the Playland Park Master Plan by submitting a grant application to the Iowa Great Places program; and

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the City Council authorize the Mayor to submit an Iowa Great Places Grant Application and authorize the Mayor and City Clerk to enter into a contract if approved.

ADOPTED
AND
APPROVED June 23, 2008

Thomas P. Hanafan, Mayor

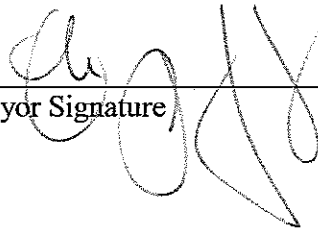
ATTEST: _____
Judith H. Ridgeley, City Clerk

Council Communication

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| Department: Fire Case/Project No. 09-24 Applicant. Alan R. Byers | Ordinance No. Resolution No. <u>08-190</u> | Council Action: <u>6/23/2008</u> |
| Subject/Title | | |
| Request to Approve Ambulance Bid | | |
| Background/Discussion | | |
| <p>The FY 09 Capital Improvement Program funded an ambulance replacement as part of the Fire Department's vehicle replacement program. Specifications were sent to vendors and two bids were received for the ambulance module.</p> <p>This ambulance purchase will replace a unit that is 10 years old. The ambulance chassis will be purchased through the State of Iowa vehicle purchase contract with International with delivery of the new complete unit in 150 days.</p> <p>Funding for the purchase is General Obligation bonds from the FY 09 CIP.</p> | | |
| Recommendation | | |
| <p>It is staff recommendation that the City Council approve the bid of \$121,859.00 submitted by Foster Coach for the purchase of one (1) ambulance module.</p> | | |

Department Head Signature

Mayor Signature



80

RESOLUTION NO. 08-190

A resolution authorizing the purchase of one (1) ambulance module from Foster Coach..

Whereas, the Fire Department has a need to purchase a new ambulance to replace a worn out vehicle; and

Whereas, bids have been received by the City with the lowest bid meeting City Specifications and Requirements being that of Foster Coach Sales, Inc. for the amount of \$ 121,859.00; and

Whereas, this City Council deems the purchase of the ambulance module to be in the best interest of the City of Council Bluffs.

NOW, THEREFORE, LET IT BE RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the above purchase be approved and the Director of Finance be and is hereby authorized, empowered and directed to purchase said ambulance module.

ADOPTED
AND
APPROVED: June 23, 2008

Thomas P. Hanafan, Mayor

ATTEST: _____
Judith Ridgeley, City Clerk

From: Keith Mehlin
Sent: Tuesday, June 17, 2008 9:11 AM
To: Judith Ridgeley
Subject: council tow memo.doc

This goes with the resolution from Dick Wade in reference to the police tow contract.

C O U N C I L B L U F F S P O L I C E D E P A R T M E N T

O F F I C E O F T H E C H I E F O F P O L I C E M E M O R A N D U M

DATE: Tuesday, June 17, 2008
TO: Mayor Hanafan, Council Members
FROM: KA Mehlin
RE: Tow Contract
RESOLUTION: 08-191

The police tow contract expires this year so a new contract was open for bidding. Two companies submitted bids, Arrow Towing and Jay B's Towing.

The purpose of this memo is to point out some of the differences in the tow contract proposals from Jay B's and Arrow Towing.

I have added to the end of this memo the difference in the actual towing costs between the two bidders. Arrow is cheaper than Jay B's on actual towing costs. One other difference is that Jay B's stated on their bid proposal that they would discount the storage on auctioned vehicles to what the state will reimburse. The state will reimburse the city \$5 per day storage fees on auctioned vehicles. I take that statement to mean that instead of charging the city \$14 a day, as the proposal states in that section, Jay B's will discount that fee to \$5. Thus, the city does not have to pay Jay B's any storage fees on auctioned vehicles. Other people, who do not have their vehicle auctioned, will pay the \$14.

The proposal from Arrow is \$10 per day. (I am using passenger cars as an example as that is what we do the most volume in.) Arrow did not include the state reimbursement discount in their bid, but it is my understanding that they later stated that they would when they learned of that practice.

I attempted to get a value of that discount, but could not. We have no way of tracking that value.

There are two other issues that need to be noted in the proposals. The bid document states that the contractor will have enough space for a minimum of 300 stored vehicles. It also states that the lots shall be adjacent to each other, and secured by a tight fence not less than six feet in height, secured from unauthorized entry.

SD

In regards to the 300 vehicle storage capacity issue, a lot of the property that Arrow Towing uses for storage actually belongs to the Burlington Northern Santa Fe Railroad. Arrow has apparently been using that property for some time, and even has railroad property fenced in and is currently storing items on that ground. They apparently have no written agreement with the railroad, and I am unsure how or why they continue to use it. However, even if you count the railroad property, Arrow does not have space for 300 cars.

According to our calculations, they have usable space for 101 vehicles without the railroad property, 179 counting the property they do not own. This does not include the property that Arrow is claiming on 7th Ave. With that property, they would have the 300 spaces, if you include the railroad property. That lot is not adjacent to the other lots, and is not fenced at this time. It is about one block from the other lots. When speaking to the attorney for Arrow, he stated that if he got the contract, he would fence it. I would also note that the 7th Ave. lot is not listed on the original bid proposal. It is outlined on a separate sheet of paper on an aerial view map. I do not know when he made the city aware that he had that property.

Using the same method to calculate useable space, Jay B's has 224 spaces. Their lots do appear to be adjacent to each other.

We currently have some lot security issues, which I believe will be magnified if the 7th Ave. lot is used for storage.

Keith Mehlin

| Vehicle Description | Number Towed | Jay B Price | Arrow Price | |
|------------------------------------|--------------|-------------|-------------|--|
| Passenger Cars and 1/2 Ton Pickups | 1270 | \$50,800.00 | \$44,450.00 | |
| Motorcycles | 26 | \$1,040.00 | \$780.00 | |
| Farm | 1 | \$10.00 | \$5.00 | |
| Semi | 2 | \$80.00 | \$50.00 | |
| Motor Homes | 4 | \$140.00 | \$80.00 | |
| | | | | |
| Totals | | \$52,070.00 | \$45,365.00 | |

PREPARED BY: City Legal Department, 209 Pearl Street, Council Bluffs, IA 51503
RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 08-191

A RESOLUTION REJECTING THE BIDS RECEIVED FOR THE TOWING CONTRACT AND EXTENDING THE CURRENT CONTRACT BY TWO MONTHS.

WHEREAS, the City requested and received bids for the police towing contract; and

WHEREAS, it is in the City's best interest to reject the bids and extend the current contract for two months.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

That the bids for the towing contract are hereby rejected and the current towing contract is extended for a period of two months.

ADOPTED
AND
APPROVED June 23, 2008

Thomas P. Hanafan, Mayor

ATTEST: _____
Judith Ridgeley, City Clerk

C.A. 6/23/08

Council Communication

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| Department: Legal | Ordinance No. | |
| Case/Project No. | Resolution No. <u>08-192</u> | Council Action: <u>June 23, 2008</u> |
| Applicant. | | |
| SUBJECT/TITLE | | |
| <p>On your agenda are three resolutions authorizing the acquisition of easements to establish a utility corridor from the eastern r-o-w of I-29 to the Google Southlands site. There is also a resolution authorizing acquisition of approximately 2.5 acres for the placement of a sanitary sewer pump station and a resolution authorizing the Mayor to execute an agreement with the Council Bluffs Industrial Foundation regarding acquisition of a utility corridor. The purpose of the agreement is to provide for reimbursement to the City for costs associated with acquiring the utility corridor.</p> | | |
| BACKGROUND | | |
| <p>The City is in the midst of negotiations with Google regarding the annexation of approximately 1000 acres south of the city and the extension of services thereto. It is anticipated that a final draft of this agreement will be presented to the City Council within the next 60 days. In order to keep the project progressing on schedule it is necessary to have a utility corridor in place so that final plans for the construction of the necessary infrastructure may be completed and contracts let. The proposed actions will complete the utility corridor.</p> | | |
| RECOMMENDATION | | |
| <p>I recommend that the aforementioned resolutions be approved by the City Council.</p> | | |
| | | |
| | | |
| | | |

Richard Wade

Department Head Signature

Mayor Signature

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PREPARED BY: City Legal Department, 209 Pearl Street, Council Bluffs, IA 51503
RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 08-192

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A PURCHASE AGREEMENT BETWEEN THE CITY OF COUNCIL BLUFFS AND EJS LAND, LLC.

WHEREAS, the City desires to purchase some land from EJS Land, LLC; and

WHEREAS, a Purchase Agreement setting out the terms and conditions of the purchase has been drafted.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

That the Mayor is hereby authorized and directed to execute the Purchase Agreement, attached hereto, between the City and EJS Land, LLC.

ADOPTED
AND
APPROVED June 23, 2008

Thomas P. Hanafan, Mayor

ATTEST: _____
Judith Ridgeley, City Clerk

C.A. 6/23/08

PURCHASE AGREEMENT

This Purchase Agreement is entered into this _____ day of _____, 2008, by and between EJS Land, LLC, a Delaware limited liability company ("Seller") and the City of Council Bluffs, an Iowa municipal corporation ("City").

1. SALE.

Seller agrees to sell to the City and the City agrees to buy from Seller the following described land and all improvements thereon, subject to the terms and conditions described in this Purchase Agreement:

Approximately 2.419 acres of land located in Pottawattamie County, Iowa, as generally depicted and as parcel "A" as shown in the attached Plat of Survey, and approximately .230 acres more or less described as Tract 2 as shown in the attached exhibit ("Real Estate").

2. PURCHASE PRICE.

The purchase price for the Real Estate shall be Thirty Thousand Dollars (\$30,000.00) per acre, with the exact acreage being determined by a survey conducted by the City as described below in Paragraph 4. In addition, the City shall reimburse Seller for its out of pocket expenses the sum of Five Thousand Dollars (\$5,000.00).

3. EARNEST MONEY.

Submitted with this Purchase Agreement is Earnest Money from the City in the amount of \$8,000.00. Seller shall be entitled to keep the Earnest Money and it shall not be refundable to the City. Upon closing of the sale of the Real Estate, however, the amount of the Earnest Money shall be deducted from the sale proceeds which shall be paid by the City to Seller.

4. SURVEY.

The City, at its cost, shall arrange for a land surveyor to survey the Real Estate to be conveyed by Seller to determine the boundaries and to confirm the exact acreage for computing the purchase price under this Purchase Agreement and establishing a legal description to be used at Closing. A copy of the survey shall be furnished to Seller upon completion. Seller shall cooperate with the City regarding lot split proceedings or documents required by Pottawattamie County, if any, but the City shall pay for all expenses related to the lot split proceedings.

5. **DAMAGES TO CROP.**

In the event there is any damage to any of Seller's crops, Seller shall be entitled to fair and reasonable compensation for any damage to both immature and mature but unharvested crops. Seller shall present in writing to City a claim for reimbursement setting out the said damages. If City does not agree that the amount claimed by Seller as being fair and reasonable, and if the parties cannot agree as to the amount of such compensation, it shall be left to three (3) disinterested appraisers of whom Seller shall choose one, City one, and the two so chosen appraisers shall select a third. The decision of the appraisers shall be final as to the amount to be paid by the City to Seller.

6. **CLOSING.**

If all of the conditions in this Purchase Agreement are met to the satisfaction of the City, in its sole discretion, the sale of the Real Estate to the City shall take place on or before August 1, 2008 ("Closing"), all as determined by the City. The City shall notify Seller in writing if all of the conditions in this Purchase Agreement have been met to its satisfaction and, if so, identify the date of Closing. Seller shall deliver all Closing documents to the City to be held in trust or escrow pending Closing within seven (7) days after Seller receives written notice and the City shall deliver the purchase price to Seller at Closing by wire transfer of immediately available funds or by check, whichever is preferred by Seller.

7. **REAL ESTATE TAXES.**

As of the date of closing, Seller shall pay all Real Estate taxes and special assessments which are due and payable regarding the Real Estate. The City shall be responsible for paying all Real Estate taxes and special assessments due and payable after the date of Closing.

8. **TITLE TO REAL ESTATE.**

At the Closing, Seller shall deliver to the City a Warranty Deed which shall be prepared by the City at its cost as well as a Declaration of Value and a Groundwater Hazard Statement which are required by Iowa law and which shall be prepared by the City. The Warranty Deed and conveyance of the Real Estate shall be free from any mortgages, liens, or encumbrances, but shall be subject to ordinary and customary easements and restrictions of record, if any.

9. **FARM LEASE.**

If the Real Estate is subject to a farm lease, Seller shall take all necessary steps to terminate the lease for the 2008 crop year. Seller understands that if there is a farm lease in effect, it is critical to terminate it so that the City may take possession of the Real Estate during the 2008 crop year free from any right of possession by a farm tenant.

10. **REPRESENTATIONS BY SELLER.**

Seller, to its knowledge, makes the following representation and statement of facts to the City:

- A. The Real Estate has not been used for dumping or storage of waste, oil, garbage, or hazardous materials.
- B. There are no underground storage tanks for petroleum products (gasoline, fuel oil or diesel fuel).
- C. The Real Estate is not in violation of any federal, state or local environmental laws. No notices have ever been served on Seller of such a violation regarding the Real Estate.
- D. The representations and statements in this Purchase Agreement shall remain in effect at the date of Closing and shall survive Closing.

11. **COVENANTS AND CONDITIONS OF CITY.**

The following are conditions or covenants to this Purchase Agreement which shall survive closing and shall run with the land. If these conditions are not satisfactorily met, Seller, in its sole discretion, shall have the right to specifically enforce the terms of these conditions, or seek other appropriate legal remedies:

- A. The 2.419 acres described as Parcel A attached hereto shall be used for a sanitary sewer pump station. The exterior design shall follow the proposed design by Fox Engineering on the drawing dated February 13, 2008, a copy of which is attached hereto and incorporated by this reference. The City shall cause the pump station to be kept and maintained in good condition, and shall not permit any outside storage of any equipment or materials, and the City shall cause the grounds to be kept and maintained in good condition and free and clear of any debris. Seller shall have the right to approve any and all fencing being placed on the perimeter of the property adjacent to Seller's property, which approval shall not be unreasonably denied, delayed or conditioned. City, or its assignees, also agree to keep the fencing in good condition.
- B. The parcel described as Tract Two, the tract of land containing approximately .230 acres, is being used by Northern Natural Gas for a metering station. The City, through their Agreement with Northern Natural Gas shall assure Seller that this property shall be well maintained and free and clear of any debris. This parcel shall also not have any materials or equipment stored on it, and the City shall cause the grounds to be kept and maintained in good condition and free and clear of any debris. Seller

shall have the right to approve any and all fencing being placed on the perimeter of the property adjacent to Seller's property. City, or its assignees, also agree to keep the fencing in good condition, which approval shall not be unreasonably denied, delayed or conditioned.

12. COVENANTS AND CONDITIONS OF SELLER:

The following are conditions or covenants to this Purchase Agreement which shall be met to the satisfaction of the City, in its sole discretion. If these conditions are not met to the satisfaction of the City, in its sole discretion, the City shall have the right to terminate this Purchase Agreement without penalty and shall have no obligation to purchase the Real Estate; however, Seller shall be entitled to keep the Earnest Money:

- A. The City shall have the right to inspect the Real Estate, including environmental testing and soil borings. Seller shall permit the City and its engineers and consultants to have reasonable access to the Real Estate for these purposes. The results of the inspections and testing shall meet the approval of the City.
- B. The City, at its cost, shall obtain a title insurance commitment acceptable to the City and which shall show Seller as the holder of marketable title to the Real Estate pursuant to title standards of the Iowa State Bar Association and Iowa law free and clear of mortgages, liens, and encumbrances but subject to ordinary and customary easements and restrictions of record, if any. If there are mortgages or liens against the Real Estate, they shall be released of record by Seller at the date of Closing. Seller must furnish clear title at Closing acceptable to the City and insurable title.
- C. Seller shall furnish a certified abstract of title to the Real Estate to City continued at least to the date of this Purchase Agreement which shall demonstrate the Seller holds merchantable title to the Real Estate consistent with the terms of this Purchase Agreement and in accordance with the title standards of the Iowa State Bar Association and Iowa law.
- D. If prior to Closing the City discovers any facts or circumstances which are contrary to any statements or representations made in this Purchase Agreement by Seller, or if any facts are discovered by the City which reveal that the Real Estate is not suitable or useable for its intended purposes, the City shall have the right to terminate this Purchase Agreement without penalty; however, Seller shall be entitled to keep the Earnest Money.
- E. Seller shall not lease the Real Estate or enter into any contract regarding the Real Estate prior to Closing.

If any of the above conditions, or other requirements of this Purchase Agreement, are not met to the satisfaction of the City, it shall provide written notice to Seller of the deficiency. Seller shall have seven (7) days to correct the deficiency. If not timely corrected by Seller to the satisfaction of the City, at its sole discretion, this Purchase Agreement may be terminated by the City upon furnishing a second written notice to Seller regarding the termination.

13. **REAL ESTATE COMMISSION.**

Seller shall have no obligation to pay any Real Estate commission regarding the sale of the Real Estate unless Seller has entered into a sales or listing agreement with a broker or agent in which event Seller shall be solely responsible to pay the commission or fee to Seller's broker or agent.

14. **BINDING EFFECT.**

This Purchase Agreement is binding not only on Seller, but also its heirs, successors in interest and personal representatives.

15. **RECORDING.**

At the time of signing this Purchase Agreement, Seller shall also sign a short Memorandum of Purchase Agreement generally describing this Purchase Agreement, but not the purchase price or any financial terms, and the City shall have the right to record the Memorandum with the Recorder of Pottawattamie County, Iowa.

16. **ASSIGNMENT BY CITY.**

The term "City" shall automatically include and mean any persons or entities to which the City may wish to assign all or any part of its rights or obligations under this Purchase Agreement. This Purchase Agreement and all or any of the rights or obligations thereunder may be freely assigned by the City without the consent of Seller. Any person or entity accepting an assignment described in this paragraph from the City shall be fully bound by all the terms of this Purchase Agreement and Seller shall also be fully bound by all of the terms of this Purchase Agreement in the event of assignment by the City. Notice of the assignment shall be given by the City to Seller within thirty (30) days following the effective date of the assignment.

17. **NOTICE.**

Any written notice required or permitted to be given under this Purchase Agreement shall be adequate if delivered by U.S. certified mail, return receipt requested, or by overnight delivery service such as Federal Express, UPS, or

Airborne, or if delivered in person. The notice shall be deemed delivered upon actual receipt or upon refusal of delivery by the intended recipient. Notice shall be addressed as follows:

To Seller: EJS Land, LLC
1710 Timber Lane Drive
Glenwood, Iowa 51534

And to: Rick D. Crowl
Stuart Tinley Law Firm
P. O. Box 398
Council Bluffs, Iowa 51502-0398

To the City: City Attorney's Office
209 Pearl Street
Council Bluffs, Iowa 51503

This Purchase Agreement has been entered into as of the day, month and year first above stated.

EJS LAND, LLC, SELLER:

By: _____
Printed Name: _____
Title: _____

CITY OF COUNCIL BLUFFS:

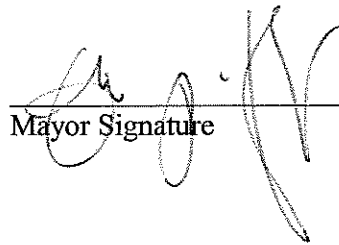
By: _____
Printed Name: _____
Title: _____

Council Communication

| | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|--------------------------------------|
| Department: Case/Project No. Applicant. | Ordinance No. Resolution No. <u>08-193</u> | Council Action: <u>June 23, 2008</u> |
| Subject/Title | | |
| Council consideration of a resolution abolishing two Utility Worker II positions and replacing them with two Equipment Operator I positions effective July 1, 2008. | | |
| Background/Discussion | | |
| <ul style="list-style-type: none">▪ There are currently 25 Utility Worker II (truck driver) positions and 8 Equipment Operator I positions at the Street & Sewer Operations Division of Public Works.▪ The workload of this division is such that more Equipment Operator I's are needed to perform the work of this division more efficiently and effectively.▪ The \$5,000 difference in salary for two Equipment Operator I's replacing two Utility Worker II positions has been budgeted and approved in the FY09 budget.▪ There is an active list approved by the Civil Service Commission with current city staff who will be eligible to promote to these positions, therefore resulting in no loss of job for any Public Works employee.▪ We would recommend that two Utility Worker II positions be abolished and in their place two Equipment Operator I positions be created. | | |
| Recommendation | | |
| Council approval of a resolution abolishing two Utility Worker II positions and creating two Equipment Operator I positions, effective July 1, 2008. | | |

Department Head Signature

Mayor Signature



RESOLUTION

No. 08-193

RESOLUTION ABOLISHING TWO UTILITY WORKER II POSITIONS
AND CREATING TWO EQUIPMENT OPERATOR I POSITIONS
IN THE STREET & SEWER DIVISION OF THE PUBLIC WORKS DEPARTMENT
EFFECTIVE JULY 1, 2008

- WHEREAS, the Street & Sewer Division is striving to become more effective and efficient in accomplishing their workloads; and
- WHEREAS, it has been determined that the work required at this location would be better performed by replacing two Utility Worker II (truck driver) positions with two Equipment Operator I positions ; and
- WHEREAS, it is deemed to be in the best interest of the City of Council Bluffs to make this change.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That two Utility Worker II positions in the Street & Sewer Division of the Public Works Department are hereby abolished and two additional Equipment Operator I positions are hereby established in their place.

ADOPTED
AND
APPROVED June 23, 2008

Thomas P. Hanafan, Mayor

ATTEST:

Judith Ridgeley, City Clerk

Council Communication

| | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|-----------------------------------------|
| Department: Parks, Recreation and Public Property Case/Project No. Applicant: John Batt | Ordinance No. Resolution No. <u>08-194</u> | Council Action: <u>6/23/2008</u> |
| Subject/Title | | |
| On June 23, 2008, the City Council will be asked to accept the Trolley Park project as substantially complete. | | |
| Background/Discussion | | |
| After City Council approval, Dostals Construction Co., Inc., signed an agreement on July 11, 2007, for the Trolley Park (Avenue B and 28 th Street Park) project. The total completed cost for the project is \$420,424.00. | | |
| Recommendation | | |
| I recommend that the City Council adopt the resolution declaring the Trolley Park project as substantially complete and authorize the Finance Department to release the retainage of \$21,021.20 in 30 days. | | |

Department Head Signature



Mayor Signature

RESOLUTION NO: 08-194

RESOLUTION ACCEPTING THE COMPLETION OF THE TROLLEY PARK PROJECT AND DIRECTING THE DIRECTOR OF FINANCE TO RELEASE THE RETAINAGE OF \$21,021.20 IN 30 DAYS.

WHEREAS: Dostals Construction Co., Inc., has completed the work required for the Trolley Park project; and

WHEREAS: the City of Council Bluffs City Council has been advised and does believe the contract has been completed.

NOW, THEREFORE, BE IT RESOLVED
BY THE
CITY COUNCIL OF THE
CITY OF COUNCIL BLUFFS, IOWA

That Dostals Construction Co., Inc., has successfully completed the Trolley Park project. That the Director of Finance be and is hereby authorized to release retainage of \$21,021.20 in 30 days.

ADOPTED
AND
APPROVED: June 23, 2008

Thomas P. Hanafan Mayor

Attest:

Judith Ridgeley City Clerk

Council Communication

| | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|--------------------------------------|
| Department: Legal | Ordinance No. | |
| Case/Project No. | Resolution No. <u>08-195</u> <u>08-196</u> <u>08-197</u> | Council Action: <u>June 23, 2008</u> |
| Applicant. | | |
| SUBJECT/TITLE | | |
| <p>On your agenda are three resolutions authorizing the acquisition of easements to establish a utility corridor from the eastern r-o-w of I-29 to the Google Southlands site. There is also a resolution authorizing acquisition of approximately 2.5 acres for the placement of a sanitary sewer pump station and a resolution authorizing the Mayor to execute an agreement with the Council Bluffs Industrial Foundation regarding acquisition of a utility corridor. The purpose of the agreement is to provide for reimbursement to the City for costs associated with acquiring the utility corridor.</p> | | |
| BACKGROUND | | |
| <p>The City is in the midst of negotiations with Google regarding the annexation of approximately 1000 acres south of the city and the extension of services thereto. It is anticipated that a final draft of this agreement will be presented to the City Council within the next 60 days. In order to keep the project progressing on schedule it is necessary to have a utility corridor in place so that final plans for the construction of the necessary infrastructure may be completed and contracts let. The proposed actions will complete the utility corridor.</p> | | |
| RECOMMENDATION | | |
| <p>I recommend that the aforementioned resolutions be approved by the City Council.</p> | | |
| | | |
| | | |
| | | |

Richard Wade

Department Head Signature



Mayor Signature

84

PREPARED BY: City Legal Department, 209 Pearl Street, Council Bluffs, IA 51503

RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 08-195

A RESOLUTION TO AUTHORIZE THE ACQUISITION OF AN EASEMENT FROM EJS LAND LLC FOR PUBLIC AND PRIVATE UTILITIES RIGHT OF WAY.

WHEREAS, it is necessary and in the best interest of the City to acquire easements from EJS Land, L.L.C. for the purpose of constructing, reconstructing, operating, maintaining and removing public and private utilities and lines; and

WHEREAS, the terms and conditions of said easement have been established and approved by City staff; and

WHEREAS, the easement area is depicted in Exhibit "A" attached hereto.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

That the Mayor is hereby authorized to sign the easement document between the City and EJS Land, L.L.C. to help facilitate the establishment of a utilities corridor.

ADOPTED
AND
APPROVED June 23, 2008

Thomas P. Hanafan, Mayor

ATTEST: _____
Judith H. Ridgeley, City Clerk

C.A.6/23/08

PREPARED BY: City of Council Bluffs Legal Dept., 209 Pearl Street, Council Bluffs, IA 51503 328-4620
RETURN TO: Public Works, 209 Pearl Street, Council Bluffs, IA 51503

City of Council Bluffs Project No. FY xxxx

EASEMENT FOR PUBLIC AND PRIVATE UTILITIES RIGHT OF WAY

KNOW ALL PERSONS BY THESE PRESENTS:

That EJS Land, L.L.C., a Delaware limited liability company, and its successors or assigns, (hereinafter called "Grantor"), for good and valuable consideration, the receipt and sufficiency of which are acknowledged, do hereby convey unto the City of Council Bluffs, Iowa, a municipal corporation, and its agents, contractors, grantees and assigns or designees (hereinafter called the "City"), a perpetual public and private utilities easement (hereinafter called the "Easement") over, under, through, and across the below-described real estate.

See Attachment "A"

(hereinafter called the "Easement Area" or "Utilities Corridor")

This Easement shall be subject to the following terms and conditions:

1. **CONSIDERATION:** City agrees to pay Grantor the sum of Fifteen Thousand Dollars (\$15,000.00) per acre for this Easement.
2. **USE OF EASEMENT AREA:** Grantor and City understand and agree that the Easement Area described herein creates a Utilities Corridor for the purposes of constructing, reconstructing, operating, maintaining and removing private or public sanitary sewer lines (including, but not limited to gray water lines and related appurtenances), as well as public or private natural gas lines, water lines and fiber optic lines and cables and communications lines, together with related poles, equipment and appurtenances.
3. **DAMAGES TO CROP:** In the event there is any damage to any of Grantor's crops as a result of this right of way, City, Grantor shall be entitled to fair and reasonable compensation for any damage to both immature and mature but unharvested crops. Grantor shall present in writing to

City a claim for reimbursement setting out the said damages. If City does not agree that the amount claimed by Grantor as being fair and reasonable, and if the parties cannot agree as to the amount of such compensation, it shall be left to three (3) disinterested appraisers of whom City shall choose one, Grantor one, and the two so chosen appraisers shall select a third. The decision of the appraisers shall be final as to the amount to be paid by the City to Grantor.

4. **COLOCATION:** The City shall have the right, at no additional cost, to designate or otherwise allow for and permit, private utility lines in addition to those uses described above in paragraph 2, including related equipment and appurtenances within the Easement Area (the "Colocated Utilities"), and to allow those Colocated Utilities to enjoy all of the rights and privileges of the Easement granted herein, and be subject to all applicable terms and conditions of this Easement, subject to the prior written consent of Grantor, which consent shall not be unreasonably denied, delayed or conditioned. If requested by an owner of Colocated Utilities, the City shall have the right to further confirm the rights and privileges granted in this paragraph regarding the Utilities Corridor by granting a written sub-easement from the City to the owner of the Colocated Utilities so long as Grantor has given it prior written consent to the Colocated Utilities. If a sub-easement is requested of the City by any owner of the Colocated Utilities, it shall be consistent with the terms and conditions of this paragraph, as well as other applicable terms and conditions of this Easement, and shall be filed by the owner of the Colocated Utilities with the Recorder of Pottawattamie County, Iowa, and thereafter shall be deemed to run with the land perpetually.
5. **TEMPORARY CONSTRUCTION EASEMENT:** The owners, agents, employees, and contractors of the City or any private entity using the Easement as described above in paragraph 2 or paragraph 4 shall automatically have a temporary construction easement for a period of three years following the date of execution of this Easement by Grantor, without the need for further grant of authority, subject to the following conditions:
 - A. Upon commencement of construction, the duration of the temporary construction easement shall not exceed eighteen (18) months for each installation of facilities in the Utilities Corridor and shall automatically terminate upon completion of construction, subject to restoration duties described below in subparagraph C.
 - B. The temporary construction easement shall be limited to a reasonable area of Grantor's land adjoining the Easement Area as depicted in the Attachment A in order to gain access for construction and to install the utilities within the Utilities Corridor.
 - C. If the use of the temporary construction easement disturbs Grantor's adjoining land, the City or any private entity using the Easement Area as described above in paragraph 2 or the owner of Colocated Utilities, as the case may be, shall be responsible to restore the disturbed area within thirty (30) days following completion of construction to a condition reasonably comparable to that which existed prior to construction and to also compensate Grantor in a reasonable fashion for damage to crops, if any, in accordance with Paragraph 3, as well as damage to trees, shrubs, or landscaping which cannot be restored, which payment shall be made not later than thirty (30) days after the date of damage.
 - D. The three (3) year term of this temporary construction easement may be extended by a period of up to eighteen (18) months so long as an installation of facilities within the Utilities Corridor was commenced within the initial three (3) year term.

6. **CHANGE OF GRADE AND ERECTION OF STRUCTURES:** Grantor shall be entitled to change the grade, elevation, or contour of any part of the Easement Area, including grading for drainage and commercial or industrial development purposes so long as Grantor has obtained the prior written consent of the City Engineer, which consent shall not be unreasonably denied, delayed or conditioned and provided the change of grade, elevation or contour does not unreasonably interfere with the use of the Easement by the City or any private entity using the Easement.

Grantor may erect improvements or structures over or within the Easement Area subject to the prior consent of the City Engineer which consent shall not be unreasonably denied, delayed or conditioned; provided, however, that if any improvements or structures are damaged or destroyed by the City or other entities using the Easement Area as a result of any future repairs, maintenance, replacement or installation of any line or utilities allowed within the Easement Area pursuant to this Easement, Grantor shall not be entitled to any damages or compensation regarding said improvements or structures and the City or entities using the Easement Area shall have no duty to restore, replace, or rebuild said improvements or structures except as set forth below in paragraph 10. The City, including the City Engineer, shall make every effort to allow Grantor reasonable access to the North end of Grantor's property from what is now designated as 192nd Street. The City recognizes that the Easement Area runs adjacent to the North end of Grantor's property all along 192nd Street, and the City also understands that Grantor intends to subdivide this property for commercial and industrial use in the near future. The City agrees to cooperate and use all reasonable efforts in order to allow Grantor to facilitate its development of the property, including access to and from the Northern boundary of the property along 192nd Street.

7. **RIGHT OF ACCESS:** City and all entities utilizing the Easement shall have the right of reasonable access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described. The City and all entities using the Easement Area shall use their best efforts to not unreasonably interfere with Grantor's use of its property.
8. **REMOVAL AND REPLACEMENT:** The cost of removal and replacement of any unauthorized improvement or structures within the Easement Area, necessitated by the exercise of the rights under this Easement, shall be borne by the Grantor or their successors or assigns.
9. **DUTY TO REPAIR:** Any drain tile, driveway or access way, or paved parking lot, fence, yard or landscaping within or outside of the Easement Area which may be damaged as a result of any entry made through an exercise of the City's right of access or any private entity's right of access shall be repaired or restored at no expense to Grantor by the City or the entity utilizing the Easement Area, as the case may be.
10. **EASEMENT RUNS WITH LAND:** This Easement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.
11. **TRANSFER TAX EXEMPTION.** This easement and transfer is exempt from transfer tax. Iowa Code Sec. 428A.1.
12. **DECLARATION OF VALUE EXEMPTION.** This easement is being acquired for public purposes and a Declaration of Value is not required. Iowa Code Sec. 428A.1.

Grantor does HEREBY COVENANT with the City and any private entity utilizing the Easement Area that Grantor holds said real estate described in this Easement by title in fee simple; that Grantor has good and lawful authority to convey the same; and said Grantor covenants to WARRANT AND DEFEND the said premises against the lawful claims of all persons whomsoever.

Words and phrases herein, including acknowledgement hereof, shall be constructed as in the singular or plural number and as masculine or feminine gender, according to context.

Signed this _____ day of _____, 2008.

EJS, L.L.C., a Delaware limited liability company

By: _____
Title: _____

STATE OF IOWA)
) ss.
POTTAWATTAMIE COUNTY)

On this _____ day of _____, 2008, before me the undersigned, a Notary Public in and for said County and said State, personally appeared _____, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Notary Public in and for the State of Iowa

CONSENT BY MORTGAGEE

The undersigned Mortgagee holding a mortgage lien on the real estate described in Attachment "A" to this Easement dated the _____ day of _____, _____, and filed on the _____ day of _____, _____, In Book _____ at Page _____ of the records of the Recorder of Pottawattamie County, Iowa (the "Mortgage") hereby consents to the Easement granted herein by Grantor and covenants and agrees that any enforcement action taken by the Mortgagee under the Mortgage, including, but not limited to, foreclosure or granting a deed in lieu of foreclosure, shall in no way terminate, abrogate, or affect the Easement granted by Grantor and said Easement, and all rights, privileges, and duties under the Easement, shall thereafter remain in full force and effect.

MORTGAGEE:

By: _____
Title: _____
Date: _____

)

and who executed the foregoing Consent by Mortgagee.

My Commission Expires: _____

PREPARED BY: City Legal Department, 209 Pearl Street, Council Bluffs, IA 51503

RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 08-196

A RESOLUTION TO AUTHORIZE THE ACQUISITION OF A 100-FOOT EASEMENT FROM ROBERT D. ADKINS-SONS FOR PUBLIC AND PRIVATE UTILITIES RIGHT OF WAY.

WHEREAS, it is necessary and in the best interest of the City to acquire an easement from Robert D. Adkins-Sons for the purposes of constructing, reconstructing, operating, maintaining and removing public and private utilities and lines; and

WHEREAS, the terms and conditions of said easement have been established and approved by City staff; and

WHEREAS, the easement area is depicted in Exhibit "A" attached hereto.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

That the Mayor is hereby authorized to sign the utilities easement document between the City and Robert D. Adkins-Sons to help facilitate the establishment of a utilities corridor.

ADOPTED
AND
APPROVED June 23, 2008

Thomas P. Hanafan, Mayor

ATTEST: _____
Judith H. Ridgeley, City Clerk

C.A.6/23/08

81

EASEMENT FOR PUBLIC AND PRIVATE UTILITIES RIGHT OF WAY

Words and phrases herein, including acknowledgement hereof, shall be constructed as in the singular or plural number and as masculine or feminine gender, according to context.

Signed this _____ day of _____, 2008.

Robert D. Adkins-Sons

By: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2008, before me the undersigned, a Notary Public in and for said County and said State, personally appeared _____, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Notary Public in & for the State of Iowa

CONSENT BY MORTGAGEE

The undersigned Mortgagee holding a mortgage lien on the real estate described in Attachment "A" to this Easement dated the ____ day of _____, _____, and filed on the ____ day of _____, _____, in Book _____ at Page _____ of the records of the Recorder of Pottawattamie County, Iowa, (the "Mortgage") hereby consents to the Easement granted herein by Grantor and covenants and agrees that any enforcement action taken by the Mortgagee under the Mortgage, including, but not limited to, foreclosure or granting a deed in lieu of foreclosure, shall in no way terminate, abrogate, or affect the Easement granted by Grantor and said Easement, and all rights, privileges, and duties under the Easement, shall thereafter remain in full force and effect.

MORTGAGEE:

By: _____
Title: _____
Date: _____

STATE OF _____

COUNTY OF _____, SS

On the ____ day of _____, 2008, before the undersigned, a Notary Public in and for said State, _____ personally appeared _____ who is the _____ of _____, and who executed the foregoing Consent by Mortgagee.

Notary Public in and for the State of _____
My Commission Expires: _____

PREPARED BY: City Of Council Bluffs Legal Dept., 209 Pearl Street, Council Bluffs, IA 51503 328-4620
RETURN TO: Public Works, 209 Pearl Street, Council Bluffs, IA 51503

City of Council Bluffs Project No. FY _____

EASEMENT FOR PUBLIC AND PRIVATE UTILITIES RIGHT OF WAY

KNOW ALL PERSONS BY THESE PRESENTS:

That Robert D. Adkins-Sons and its successors or assigns, (hereinafter called "Grantor"), for good and valuable consideration, the receipt and sufficiency of which are acknowledged, do hereby convey unto the City of Council Bluffs, Iowa, a municipal corporation, and its agents, contractors, grantees and assigns, (hereinafter called the "City"), a perpetual public and private utilities easement (hereinafter called the "Easement") over, under, through, and across the below-described real estate.

See Attachment "A"

(hereinafter called the "Easement Area")

This Easement shall be subject to the following terms and conditions:

1. **USE OF EASEMENT AREA:** Grantor and City understand and agree that the Easement Area described herein creates an area for the purposes of constructing, reconstructing, operating, maintaining and removing public and private utilities and lines ("Utilities Corridor").
2. **COLOCATION:** In addition to the public uses of the Utilities Corridor within the Easement Area by the City as described in this Easement, Grantor and City agree that the City shall have the absolute right, at its sole discretion, to designate or otherwise allow for and permit private sanitary sewer lines (including, but not limited to gray water lines and related appurtenances), private storm sewer lines, private electric lines, private water lines, private fiber optic lines and cables and other private utility or private service lines, poles, lines, private fiber optic lines and cables and other private utility or private service lines, poles, equipment and appurtenances within the Easement Area (the "Colocated Utilities") and to allow those Colocated Utilities to enjoy all of the rights and privileges of the Easement granted herein, and be subject to all applicable terms and conditions of this Easement, without the necessity of any approval or consent of Grantor or its successors in interest or assigns. If requested by an owner of Colocated Utilities, the City shall have the right to further confirm the rights and privileges granted in this paragraph regarding the Utilities Corridor by granting a written sub-easement from the City to the owner of the Colocated Utilities. If a sub-easement is requested of the City by any owner of the Colocated Utilities, it shall be consistent with the terms and conditions of this paragraph, as well as other applicable terms and conditions of this Easement, and shall be filed by the owner of the Colocated Utilities with the Recorder of Pottawattamie County, Iowa, and thereafter shall be deemed to run with the land perpetually.
3. **TEMPORARY CONSTRUCTION EASEMENT:** Notwithstanding any provision herein to the contrary, Grantee does not grant the City a temporary construction easement of any nature. Access to the Easement Area shall be from third party real estate to the east and north of the Easement Area.
4. **ERECTION OF STRUCTURES PROHIBITED:** Grantor shall not erect any improvement or structure over or within the Easement Area without obtaining the prior written consent of the City Engineer.

EASEMENT FOR PUBLIC AND PRIVATE UTILITIES RIGHT OF WAY

5. **CHANGE OF GRADE PROHIBITED:** Grantor shall not change the grade, elevation, or contour of any part of the Easement Area without obtaining the prior written consent of the City Engineer.
6. **RIGHT OF ACCESS:** City and all entities utilizing the Easement pursuant to paragraph 1 above shall have access the Easement Area over third party real estate to the east and north of the Easement Area and shall be responsible for obtaining all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described from the owners of said third party real estate.
7. **REMOVAL AND REPLACEMENT:** The cost of removal and replacement of any unauthorized improvement or structures within the Easement Area, necessitated by the exercise of the rights under this Easement, shall be borne by the Grantor or their successors or assigns.
8. **SURFACE RESTORATION:** The liability to restore the surface within the Easement Area shall be limited only to grading and seeding by the City or any entity utilizing the Easement pursuant to paragraph 1 above, as the case may be.
9. **DUTY TO REPAIR:** Any drain tile, drive or access way, fence, yard or other improvements outside of the Easement Area which may be damaged as a result of any entry made through an exercise of the City's right of access shall be repaired at no expense to Grantor by the City or the entity utilizing the Easement pursuant to paragraph 1 above, as the case may be.
10. **EASEMENT RUNS WITH LAND:** This easement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.
11. This easement and transfer is exempt from transfer tax Iowa Code Sec. 428 A.1.
12. This easement is being acquired for public purposes and a Declaration of Value is not required. Iowa Code Sec. 428 A.1.
13. **CONSIDERATION FOR EASEMENT.** In consideration of Grantor granting the within easement, the City shall (i) immediately assume all obligations of Grantor to maintain the existing sewer line from the west boundary of the Easement Area to the City's sewer treatment plant and (ii) verify that the existing pumps on the force sewer main extending from the Grantor's plant to the south boundary of the Easement Area will meet the pumping conditions created by the installations within the Easement Area and if not, the City shall, at its expense, either modify the existing pumps so as to meet said new pumping conditions or replace the existing pumps with new pumps which meet said conditions.

Grantor does HEREBY COVENANT with the City that Grantor holds said real estate described in this Easement by title in fee simple; that Grantor has good and lawful authority to convey the same; and said Grantor covenants to WARRANT AND DEFEND the said premises against the lawful claims of all persons whomsoever.

The undersigned hereby relinquishes all rights of dower, homestead, and distributive share, if any, in and to the interests conveyed by the Easement.

[signature page follows]

PREPARED BY: City Legal Department, 209 Pearl Street, Council Bluffs, IA 51503

RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 08-197

A RESOLUTION TO AUTHORIZE THE ACQUISITION OF AN EASEMENT FOR PUBLIC AND PRIVATE UTILITIES RIGHT OF WAY FROM BUNGE NORTH AMERICA, INC.

WHEREAS, it is necessary and in the best interest of the City to acquire an easement from Bunge North America, Inc., for the purposes of constructing, reconstructing, operating, maintaining and removing public and private utilities and lines; and

WHEREAS, the terms and conditions of said easement have been established and approved by City staff; and

WHEREAS, the easement area is depicted in Exhibit "A" attached hereto.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

That the Mayor is hereby authorized to sign the utilities easement document between the City and Bunge North America, Inc. to help facilitate the establishment of a utilities corridor.

ADOPTED
AND
APPROVED: June 23, 2008

Thomas P. Hanafan, Mayor

ATTEST: _____
Judith H. Ridgeley, City Clerk

C.A.6/23/08

8 J

PREPARED BY: City Of Council Bluffs Legal Dept., 209 Pearl Street, Council Bluffs, IA 51503 328-4620
RETURN TO: Public Works, 209 Pearl Street, Council Bluffs, IA 51503

City of Council Bluffs Project No. FY xx-xx

EASEMENT FOR PUBLIC AND PRIVATE UTILITIES RIGHT OF WAY

KNOW ALL PERSONS BY THESE PRESENTS:

That Bunge North America, Inc., a New York corporation, and its successors or assigns, (hereinafter called "Grantor"), for good and valuable consideration, the receipt and sufficiency of which are acknowledged, do hereby convey unto the City of Council Bluffs, Iowa, a municipal corporation, and its agents, contractors, grantees and assigns, (hereinafter called the "City"), a perpetual public and private utilities easement (hereinafter called the "Easement") over, under, through, and across the below-described real estate.

See Attachment "A"

(hereinafter called the "Easement Area")

This Easement shall be subject to the following terms and conditions:

1. **USE OF EASEMENT AREA:** Grantor and City understand and agree that the Easement Area described herein creates an area for the purposes of constructing, reconstructing, operating, maintaining and removing underground public and private utilities and lines ("Utilities Corridor").
2. **COLOCATION:** In addition to the public uses of the Utilities Corridor within the Easement Area by the City as described in this Easement, Grantor and City agree that the City shall have the absolute right, at its sole discretion, to designate or otherwise allow for and permit private sanitary sewer lines (including, but not limited to gray water lines and related appurtenances), private storm sewer lines, private electric lines, private water lines, private fiber optic lines and cables and other private utility or private service lines, private fiber optic lines and cables and other private utility or private service lines, equipment and appurtenances within the Easement Area (the "Colocated Utilities") and to allow those Colocated Utilities to enjoy all of the rights and privileges of the Easement granted herein, and be subject to all applicable terms and conditions of this Easement, without the necessity of any approval or consent of Grantor or its successors in interest of assigns. If requested by an owner of Colocated Utilities, the City shall have the right to further confirm the rights and privileges granted in this paragraph regarding the Utilities Corridor by granting a written sub-easement from the City to the owner of the Colocated Utilities. If a sub-easement is requested of the City by any owner of the Colocated Utilities, it shall be consistent with the terms and conditions of this paragraph, as well as other applicable terms and conditions of this Easement, and shall be filed by the owner of the Colocated Utilities with the Recorder of Pottawattamie County, Iowa, and thereafter shall be deemed to run with the land perpetually.
3. **TEMPORARY CONSTRUCTION EASEMENT:** Notwithstanding any provision herein to the contrary, Grantor does not grant the City a temporary construction easement of any nature. Access to the Easement Area shall be from third party real estate to the east and north of the Easement Area.
4. **ERECTION OF STRUCTURES PROHIBITED:** Grantor reserves the right to install additional railroad lines over or within the Easement Area without obtaining the prior written consent of any third party.

EASEMENT FOR PUBLIC AND PRIVATE UTILITIES RIGHT OF WAY

Accordingly, no one, other than Grantor, shall erect any improvement or structure over or within the Easement Area without the prior written consent of Grantor. Further, all utilities located within the Easement Area shall be encased, as necessary, so as to protect said utilities from future rail traffic within the Easement Area.

5. **CHANGE OF GRADE PROHIBITED:** Other than as may be required for the installation of additional railroad lines, Grantor shall not change the grade, elevation, or contour of any part of the Easement Area without obtaining the prior written consent of the City Engineer.
6. **RIGHT OF ACCESS:** City and all entities utilizing the Easement pursuant to paragraph 1 above shall have access to the Easement Area over third party real estate to the east and north of the Easement Area and shall be responsible for obtaining all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described from the owners of said third party real estate.
7. **REMOVAL AND REPLACEMENT:** The cost of removal and replacement of any unauthorized improvement or structures within the Easement Area, necessitated by the exercise of the rights under this Easement, shall be borne by the party installing said improvement or structures or its successors or assigns.
8. **SURFACE RESTORATION:** The liability to restore the surface within the Easement Area shall be limited only to grading and seeding by the City or any entity utilizing the Easement pursuant to paragraph 1 above, as the case may be.
9. **DUTY TO REPAIR:** Any drain tile, drive or access way, fence, yard or other improvements outside of the Easement Area which may be damaged as a result of any entry made through an exercise of the City's right of access shall be repaired at no expense to Grantor by the City or the entity utilizing the Easement pursuant to paragraph 1 above, as the case may be.
10. **EASEMENT RUNS WITH LAND:** This easement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.
11. This easement and transfer is exempt from transfer tax Iowa Code Sec. 428 A.1.
12. This easement is being acquired for public purposes and a Declaration of Value is not required. Iowa Code Sec. 428 A.1.
13. **CONSIDERATION FOR EASEMENT.** In consideration of Grantor granting the within easement, the City shall (i) immediately assume all obligations of Grantor to maintain the existing sewer line from the west boundary of the Easement Area to the City's sewer treatment plant and (ii) verify that the existing pumps on the force sewer main extending from the Grantor's plant to the south boundary of the Easement Area will meet the pumping conditions created by the installations within the Easement Area and if not, the City shall, at its expense, either modify the existing pumps so as to meet said new pumping conditions or replace the existing pumps with new pumps which meet said conditions.
14. **INDEMNIFICATION.** City shall indemnify and hold Grantor and Bunge North America (OPD West), Inc. harmless against and in respect of:
 - a. all claims arising in favor of any person or other entity on account of personal injury or property damage in any way resulting from the improper or negligent acts or omissions of City, its employees, agents, contractors, grantees or assigns;
 - b. any claim, loss, damage or deficiency resulting directly or indirectly from any misrepresentation, breach, nonfulfillment or noncompliance with any of the terms of this Easement; and
 - c. all other actions, suits, proceedings, demands, assessments, adjustments, costs and expenses incident to the foregoing, including, without limitation, reasonable attorneys' fees and other out-of-pocket expenses.

EASEMENT FOR PUBLIC AND PRIVATE UTILITIES RIGHT OF WAY

Grantor does HEREBY COVENANT with the City that Grantor holds said real estate described in this Easement by title in fee simple; that Grantor has good and lawful authority to convey the same; and said Grantor covenants to WARRANT AND DEFEND the said premises against the lawful claims of all persons whomsoever.

[signature page follows]

Words and phrases herein, including acknowledgement hereof, shall be constructed as in the singular or plural number and as masculine or feminine gender, according to context.

Bunge North America, Inc.

City of Council Bluffs, Iowa

By: Judie Ridgeley, City Clerk

On this _____ day of _____, 2008, before me the undersigned, a Notary Public in and for said County and said State, personally appeared _____, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

STATE OF IOWA)
) ss
COUNTY OF POTTAWATTAMIE)

On this _____ day of _____, 2008, before me a Notary Public in and for said County, personally appeared Thomas P. Hanafan and Judie Ridgeley to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively of the City of Council Bluffs, Iowa, a Municipal Corporation, created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipal Corporation, and that said instrument was signed and sealed on behalf of said Municipal Corporation by authority and resolution of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipal Corporation by it voluntarily executed.

4

Council Communication

| | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|--------------------------------------|
| Department: Legal | Ordinance No. | |
| Case/Project No. | Resolution No. <u>08-198</u> | Council Action: <u>June 23, 2008</u> |
| Applicant. | | |
| SUBJECT/TITLE | | |
| <p>On your agenda are three resolutions authorizing the acquisition of easements to establish a utility corridor from the eastern r-o-w of I-29 to the Google Southlands site. There is also a resolution authorizing acquisition of approximately 2.5 acres for the placement of a sanitary sewer pump station and a resolution authorizing the Mayor to execute an agreement with the Council Bluffs Industrial Foundation regarding acquisition of a utility corridor. The purpose of the agreement is to provide for reimbursement to the City for costs associated with acquiring the utility corridor.</p> | | |
| BACKGROUND | | |
| <p>The City is in the midst of negotiations with Google regarding the annexation of approximately 1000 acres south of the city and the extension of services thereto. It is anticipated that a final draft of this agreement will be presented to the City Council within the next 60 days. In order to keep the project progressing on schedule it is necessary to have a utility corridor in place so that final plans for the construction of the necessary infrastructure may be completed and contracts let. The proposed actions will complete the utility corridor.</p> | | |
| RECOMMENDATION | | |
| <p>I recommend that the aforementioned resolutions be approved by the City Council.</p> | | |
| | | |
| | | |
| | | |

Richard Wade

Department Head Signature

Mayor Signature

8 K

PREPARED BY: City Legal Department, 209 Pearl Street, Council Bluffs, IA 51503

RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 08-198

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT ENTITLED
“AGREEMENT REGARDING ACQUISITION OF UTILITY CORRIDOR” BETWEEN THE CITY AND THE
COUNCIL BLUFFS INDUSTRIAL FOUNDATION, INC. (CBIF).

WHEREAS, CBIF is acquiring land within an unincorporated portion of Pottawattamie County adjoining the City of Council Bluffs for the purposes of encouraging an industrial development which could be considered for annexation into the City; and

WHEREAS, it is necessary for CBIF to acquire easements and land to create a public utility corridor to help make this development feasible; and

WHEREAS, it is necessary for the City to acquire easements and land for the same purpose and CBIF shall reimburse the City for acquisition costs; and

WHEREAS, the terms and conditions of this agreement have been reviewed and it is in the best interests of the City to enter into said agreement.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

That the Mayor is hereby authorized to sign the document entitled “Agreement Regarding Acquisition of Utility Corridor.”

ADOPTED
AND
APPROVED June 23, 2008

Thomas P. Hanafan, Mayor

ATTEST: _____
Judith H. Ridgeley, City Clerk

C.A.6/23/08

AGREEMENT REGARDING ACQUISITION OF UTILITY CORRIDOR

This Agreement Regarding Acquisition of Utility Corridor ("Agreement") is entered into this ____ day of _____, 2008, by and between the City of Council Bluffs, Iowa, a municipal corporation ("City") and Council Bluffs Industrial Foundation, Inc., an Iowa non-profit corporation, as well as its successors in interest and assigns ("CBIF").

RECITALS:

- A. CBIF is acquiring land within an unincorporated portion of Pottawattamie County, Iowa adjoining the City for the purposes of encouraging an industrial development which could be considered for annexation to the City ("Project").
- B. In connection with the efforts of CBIF to encourage the Project, it will be necessary to acquire easements and land in order to create a public utility corridor which would help make the Project feasible.
- C. CBIF has requested that the City acquire easements and land for the public utility corridor to help make the Project feasible and, in turn, CBIF shall reimburse the City for acquisition costs.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the City and CBIF hereby agree as follows:

1. ACQUISITION OF UTILITY CORRIDOR.

Upon execution of this Agreement, the City shall immediately begin acquisition, of easements and right-of-ways of sufficient width and at locations as identified in consultation with CBIF extending from the City's existing wastewater treatment plant to CBIF's property line. These easements and right-of-ways shall constitute a public utility corridor to accommodate sanitary sewer and gray water lines in addition to other potential utility lines, which utility corridor would be available to serve CBIF's property and the Project. The City shall use its best efforts to secure a utility corridor in width of not less than 50 feet to allow primarily for construction of a sanitary sewer line as well as a dedicated gray water line and other potential utility lines (collectively the "Utility Infrastructure") necessary for CBIF's intended use of the Property. These easements and right-of-ways constituting the utility corridor shall also include the acquisition by the City of land of sufficient size and appropriate location to allow the construction and use of a sanitary sewer pump station, all according to specifications established by CBIF which shall also meet the requirements of the City. The City shall approach and communicate with land owners, as necessary, to expedite acquisition of the easements, right-of-ways and land. The City shall use its best efforts to secure the easements, right-of-ways and land within sixty (60) days following execution of this Agreement.

2. REIMBURSEMENT.

CBIF shall reimburse the City for all costs associated with acquisition of the easements, right-of-way and land as described above in paragraph 1 ("Acquisition Costs"), not to exceed \$_____, although costs shall be approved in writing by CBIF in advance.

3. STATUS OF UTILITY CORRIDOR.

The easements, right-of-ways and land described above in paragraph 1 shall be retained by the City as a public utility corridor but shall allow for assignment of temporary construction easements and permanent easements within the utility corridor to CBIF in the event that ownership of all or part of the Utility Infrastructure is retained by CBIF. CBIF and City agree that if the Project becomes feasible and is implemented, the Utility Infrastructure shall be constructed and installed by CBIF at its cost, except for incremental costs incurred by the City's wish to create extra capacity, pursuant to a Development Agreement to be negotiated between the City and CBIF.

4. USE OF UTILITY CORRIDOR.

The City acknowledges that acquisition of the easements, right-of-ways and land described above in paragraph 1 is necessary for the intended use of the CBIF's property and the Project including, but not limited to, extension of infrastructure for sanitary/industrial sewer, gray water, water, or fiber optic cables. Any alternative use of the easements, right of ways and land desired by the City or other third party may be allowed by the City but only after CBIF has indicated in writing that the development of its property and the Project would not adversely be impacted by the alternative use of the City's easements, right of ways and land which response by CBIF shall be provided to the City in a timely manner. If, in CBIF's reasonable judgment, the development of the property is determined to be adversely impacted, the City and CBIF shall work in good faith to identify additional needed easements, and the City shall make best efforts to acquire needed additional easements on CBIF's behalf or make reasonable accommodations, as necessary, for the intended development of the Project.

IN WITNESS WHEREOF, this Agreement has been duly executed effective as of the day, month and year first above written.

CITY OF COUNCIL BLUFFS, IOWA

ATTEST:

By: _____
Judith Ridgely, City Clerk

By: _____
Thomas P. Hanafan, Mayor

COUNCIL BLUFFS INDUSTRIAL
FOUNDATION, INC.

By: _____
Title: _____

STATE OF IOWA)
COUNTY OF) SS
POTTAWATTAMIE)

On this _____ day of _____, 2008, before me a Notary Public in and for said County, personally appeared _____ and _____ to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively of the City of Council Bluffs, Iowa, a Municipal Corporation, created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipal Corporation, and that said instrument was signed and sealed on behalf of said Municipal Corporation by authority and resolution of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipal Corporation by it voluntarily executed.

Notary Public in and for Pottawattamie County, Iowa

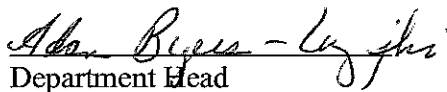
STATE OF IOWA)
COUNTY OF) SS
POTTAWATTAMIE)

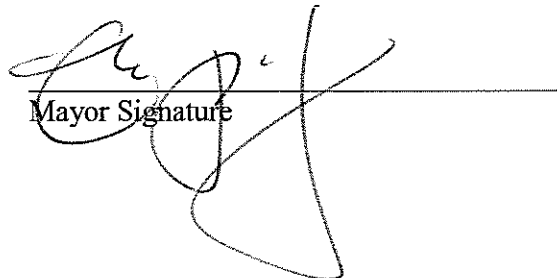
On this _____ day of _____, 2008, before me the undersigned, a Notary Public in and for said County, in said State, personally appeared _____, to me personally known, who, being by me duly sworn, did say that he is the _____ of Council Bluffs Industrial Foundation, Inc., and that said instrument was signed on behalf of said corporation; and that the said _____ as such officer acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by him voluntarily executed.

Notary Public in and for Pottawattamie County, Iowa

Council Communication

| Department: Fire Department | Ordinance No. _____ | | | | | | | | | | | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|---------------------------------------------|----------------|-----------------------|---------------------------------------------|---------------------|--------------|--------------|-------------------------|--------------|--------------|-----------------------|--------------|--------------|
| Case/Project No. n/a | Resolution No. <u>08-199</u> | Council Action: <u>June 23, 2008</u> | | | | | | | | | | | | |
| Applicant. n/a | | | | | | | | | | | | | | |
| Subject/Title | | | | | | | | | | | | | | |
| Southwest Iowa Regional Fire Training Facility, City Project No. FY 08-28 | | | | | | | | | | | | | | |
| Background/Discussion | | | | | | | | | | | | | | |
| <p>The FY 09 Capital Improvement Program identified the need to provide for construction of a fire training facility to proactively preserve and upgrade existing infrastructure. Specifications were provided to vendors for competitive bidding.</p> <p>Funding for the construction is General Obligation bonds from the FY 09 CIP</p> <p>Bids for construction of the Regional Fire Training Facility were received by the City Clerk on Wednesday, June 18, 2008:</p> <table style="width: 100%; border-collapse: collapse;"><thead><tr><th style="text-align: left;"><u>Company</u></th><th style="text-align: left;"><u>Total Base Bid</u></th><th style="text-align: left;"><u>Total Div I & II Alternate Items</u></th></tr></thead><tbody><tr><td>M.F.T. Construction</td><td>\$526,234.17</td><td>\$ 72,875.33</td></tr><tr><td>R. D. Blue Construction</td><td>\$619,420.33</td><td>\$122,310.34</td></tr><tr><td>Leazenby Construction</td><td>\$508,596.10</td><td>\$ 66,044.55</td></tr></tbody></table> | | | <u>Company</u> | <u>Total Base Bid</u> | <u>Total Div I & II Alternate Items</u> | M.F.T. Construction | \$526,234.17 | \$ 72,875.33 | R. D. Blue Construction | \$619,420.33 | \$122,310.34 | Leazenby Construction | \$508,596.10 | \$ 66,044.55 |
| <u>Company</u> | <u>Total Base Bid</u> | <u>Total Div I & II Alternate Items</u> | | | | | | | | | | | | |
| M.F.T. Construction | \$526,234.17 | \$ 72,875.33 | | | | | | | | | | | | |
| R. D. Blue Construction | \$619,420.33 | \$122,310.34 | | | | | | | | | | | | |
| Leazenby Construction | \$508,596.10 | \$ 66,044.55 | | | | | | | | | | | | |
| Recommendation | | | | | | | | | | | | | | |
| It is the recommendation of HGM, City Consultant, and Staff that City Council approve the bid from Leazenby Construction as the lowest most responsible bidder to construct the Southwest Iowa Regional Fire Trainnig Facility. | | | | | | | | | | | | | | |


Department Head


Mayor Signature

RESOLUTION NO. 08-199

A resolution authorizing the awarding of bid for construction of the Southwest Iowa Regional Fire Training Facility to Leazenby Construction, Inc.

Whereas, the Fire Department has a need to construct a new Southwest Iowa Regional Fire Training Facility; and

Whereas, bids have been received by the City with the lowest bid meeting City Specifications and Requirements being that of Leazenby Construction, Inc.; and

Whereas, this City Council deems the awarding of the contract to Leazenby Construction, Inc., for the construction of the Southwest Iowa Regional Training Facility would be in the best interest of the City.

NOW, THEREFORE, LET IT BE RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the Mayor and City Clerk are authorized and directed to enter into an agreement with Leazenby Construction, Inc., for the construction of the Southwest Iowa Regional Fire Training Facility.

ADOPTED
AND
APPROVED: June 23, 2008

Thomas P. Hanafan, Mayor

ATTEST: _____
Judith Ridgeley, City Clerk

Council Communication

| | | |
|---------------------------------------------------------------------------|---------------------------------------|----------------------------------|
| Department: mayor Case/Project No. Applicant. Inky Westfall | Ordinance No. Resolution No. _____ | Council Action: <u>6/23/2008</u> |
| Subject/Title | | |
| Board and Commission update | | |
| Background/Discussion | | |
| Municipal Housing | | |
| Recommendation | | |
| Please approve. | | |

Department Head Signature

Mayor Signature

Memo

To: Members of City Council

From: Mayor Tom Hanafan

Date: June 16, 2008

Re: Appointments for June 23, 2008 Council Meeting

With City Council concurrence, I would like to make the following appointments:

Municipal Housing Agency

Reappoint Sharon Finerty, 15223 Catalina Terrace, Council Bluffs IA, Catherine Damgaard, 438 Washington St Carson IA, and Bobbette Behrens at 139 Woodbury Circle, Council Bluffs, IA with terms expiring on July 31st, 2010.